



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0653]

RIN 1625-AA08

Special Local Regulation; Lighthouse Musicfest, Huntington Bay, Long Island, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation of certain navigable waters of Huntington Bay, Long Island, NY, for the Lighthouse Musicfest marine event. This action is necessary to provide the safety of life on these navigable waters during the event scheduled for Saturday, September 4, 2021. This rule will allow the Coast Guard to prohibit vessel traffic in the vicinity of the event and establishes mooring areas and a speed restriction in the designated zone.

DATES: This rule is effective from 9:30 a.m. through 7:30 p.m. on Saturday, September 4, 2021 with a rain date effective from 9:30 a.m. through 7:30 p.m. on Sunday, September 5, 2021. The rule will only be subject to enforcement from 9:30 a.m. through 7:30 p.m. on September 4, 2021, unless the event is delayed because of weather conditions in which case it may be subject to enforcement those same hours on September 5, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0653 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Chris Gibson, Waterways Management Division, U.S. Coast Guard; telephone 203-468-4565, email Chris.A.Gibson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Long Island Sound
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The event sponsor was late in submitting the marine event application. This late submission did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the effective date. It would be impracticable and contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety of waterway users. Further, the expeditious implementation of this rule is in the public interest because it will help ensure the safety of spectators and those involved in the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Delaying the effective date of this rule would be impracticable and contrary to the public interest because the temporary special local regulation must be established on September 4, 2021 to ensure the safety of spectators and vessels during the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Long Island Sound (COTP) has determined that extra and unusual hazards exists for persons or vessels operating within the waters of Huntington Bay, Long Island, NY with the Lighthouse Musicfest marine event. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the special local regulated area during the Lighthouse Musicfest marine event.

IV. Discussion of the Rule

The COTP is establishing two mooring areas and one no wake zone for this temporary special local regulation to restrict vessel traffic for the safety of persons and property. The special local regulation will cover certain navigable waters of Huntington Bay, Long Island, NY from 9:30 a.m. through 7:30 p.m. on Saturday, September 4, 2021 with a rain date effective from 9:30 a.m. through 7:30 p.m. on Sunday, September 5, 2021. The rule only be subject to enforcement from 9:30 a.m. through 7:30 p.m. on September 4, 2021, unless the event is delayed because of weather conditions in which case it may be subject to enforcement those same hours on September 5, 2021. The temporary special local regulation will cover speciife waters of Huntington Bay, NY.

The Lloyd Harbor mooring area, will start at the Huntington Lighthouse, NY, in position at 40°54'38" N, 073°25'52" W; then southwest to a point in position at 40°54'28.47" N, 073°26'17.59" W; then west along the coast of West Neck to a point in position at 40°54'46.32" N, 073°26'56.25" W; then north to a point in position at 40°54'56.24" N, 073°26'56.24" W; then east along Lloyd Neck to a point in position at

40°54'49.78" N, 073°26'8.51" W; then north-northeast along the coast of Lloyd Neck to a point in position at 40°55'5.58" N, 073°25'50.22" W; and then to point of origin at Huntington Lighthouse, NY in position at 40°54'38" N, 073°25'52" W (NAD 83).

The East of Channel mooring area, will start at the point in position at 40°54'23.21" N, 073°25'35.55" W; then west along the coast of Wincoma, NY to a point in position at 40°54'23" N, 073°25'55.7" W; then northeast to a point in position at 40°54'37.7" N, 073°25'42.4" W; then southeast to a point in position at 40°54'34.4" N, 073°25'29.4" W; and then to point of origin in position at 40°54'23.21" N, 073°25'35.55" W (NAD 83).

The Slow-No Wake Zone will start at the point in position at 40°55'38.77" N, 073°25'45.96" W; then southeast to a point in position 40°54'51.44" N, 073°24'17.76" W; then south-southwest to a point in position at 40°54'17.65" N, 073°24'23.71" W; then west along the coast of the Village of Huntington Bay and Wincoma, NY to a point in position at 40°54'23" N, 073°25'55.7" W; then west-northwest to a point in position at 40°54'27.12" N, 073°26'26.85" W; then north-northwest to a point in position at 40°54'49.78" N, 073°26'8.51" W; and then north along the coast of Lloyd Neck to the point of origin at position at 40°55'38.77" N, 073°25'45.96" W (NAD 83). People are advised to visit www.huntingtonlighthouse.org/music_fest to get visual chartlet of the temporary special local regulation.

The regulated area is intended to protect personnel, vessels, and the marine environment in these navigable waters for the duration of the Lighthouse Musicfest marine event. No vessel or person will be permitted to anchor, moor, or loiter outside of the established mooring areas. All persons and vessels within the regulated area are subject to a "Slow-No Wake" speed limit. Vessels within the SLR may not produce more than a minimum wake and may not attain speeds greater than five knots unless a higher minimum speed is necessary to maintain steerageway when traveling with a strong

current. In no case may the wake produced by a vessel within the regulation be such that it creates a danger of injury to persons or damage to vessels or structures of any kind unless specified by the COTP or their designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration and time-of-day of the special local regulation. This rule involves a special local regulation lasting approximately 10 hours and impacting waters of Huntington Bay, Long Island, NY. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the SLR and the rule would allow vessels to seek permission to transit the regulated area. Vessel traffic would also be able to request permission from the COTP or a designated representative to enter the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast

Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have

determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary special local regulation lasting from 9:30 a.m. through 7:30 p.m. on September 4, 2021 that will restrict movement in Huntington Bay, Long Island, NY for the duration of the marine event. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1

2. Add §100.T01-0653 to read as follows:

§100.T01-0653 Special Local Regulation; Lighthouse Musicfest, Huntington Bay, Long Island, NY.

(a) *Regulated Area.* The regulations in this section apply to the following area: Waters of Huntington Bay, Long Island NY. No persons or vessels may anchor, moor, or loiter unless in the designated mooring areas specified below.

(1) *The Lloyd Harbor Mooring Area.* Beginning at the Huntington Lighthouse, NY in position at 40°54'38" N, 073°25'52" W; then southwest to a point in position at 40°54'28.47" N, 073°26'17.59" W; then west along the coast of West Neck to a point in position at 40°54'46.32" N, 073°26'56.25" W; then north to a point in position at 40°54'56.24" N, 073°26'56.24" W; then east along Lloyd Neck to a point in position at 40°54'49.78" N, 073°26'8.51" W; then north-northeast along the coast of Lloyd Neck to a point in position at 40°55'5.58" N, 073°25'50.22" W; and then to point of origin at Huntington Lighthouse, NY in position at 40°54'38" N, 073°25'52" W.

(2) *The East of Channel Mooring Area.* Beginning at the point in position at 40°54'23.21" N, 073°25'35.55" W; then west along the coast of Wincoma, NY to a point in position at 40°54'23" N, 073°25'55.7" W; then northeast to a point in position at 40°54'37.7" N, 073°25'42.4" W; then southeast to a point in position at 40°54'34.4" N, 073°25'29.4" W; and then to point of origin in position at 40°54'23.21" N, 073°25'35.55" W.

(3) *Slow-No Wake Area.* Beginning at the point in position at 40°55'38.77" N, 073°25'45.96" W; then southeast to a point in position 40°54'51.44" N, 073°24'17.76" W; then south-southwest to a point in position at 40°54'17.65" N, 073°24'23.71" W; then west along the coast of the Village of Huntington Bay and Wincoma, NY to a point in position at 40°54'23" N, 073°25'55.7" W; then west-northwest to a point in position at 40°54'27.12" N, 073°26'26.85" W; then north-northwest to a point in position at 40°54'49.78" N, 073°26'8.51" W; and then north along the coast of Lloyd Neck to the point of origin at position at 40°55'38.77" N, 073°25'45.96" W. All coordinates are approximate and are based on datum NAD 1983.

(b) *Definitions.* As used in this section, *Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Long Island Sound (COTP) in the enforcement of the regulations in this section.

(c) *Regulations.* (1) All persons and vessels are prohibited from anchoring, mooring, or loitering outside the designated mooring areas and are subject to a "Slow-No Wake" speed limit. Vessels within the regulated area described in paragraph (a)(3) of this section may not produce more than a minimum wake and may not attain speeds greater than five knots unless a higher minimum speed is necessary to maintain steerageway when traveling with a strong current. In no case may the wake produced by

a vessel within the “Slow-No Wake” area be such that it creates a danger of injury to persons or damage to vessels or structures unless specified by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the Designated Representative via VHF-FM marine channel 16 or by contacting the Coast Guard Sector Long Island Sound Command Center at (203) 468-4401. Those persons in the regulated area must comply with all lawful orders or directions given to them by the COTP or the Designated Representative.

(d) *Enforcement period.* This section will be enforced from 9:30 a.m. to 7:30 p.m. on September 4, 2021 with a rain date that may be enforced from 9:30 a.m. to 7:30 p.m. on September 5, 2021. A Broadcast Notice to Mariners will let persons know the actual date of the enforcement period.

Dated: August 27, 2021.

E. J. Van Camp
Captain, U.S. Coast Guard,
Captain of the Port Long Island Sound.

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